

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JEFFREY SPENCER,)	
)	
Plaintiff,)	
)	Civil Action No. 3:22-217
v.)	Judge Nora Barry Fischer
)	Magistrate Judge Keith Pesto
PENNSYLVANIA DEPARTMENT OF)	
CORRECTIONS, et al.,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, this 20th day of December, 2024, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith Pesto on January 25, 2024, (Docket No. 36), recommending that after screening Plaintiff Jeffrey Spencer's Amended Complaint under the Prison Litigation Reform Act, 28 U.S.C. § 1915(e)(2), that the Amended Complaint be dismissed and that his federal claims under the Americans With Disabilities Act, ("ADA"), Rehabilitation Act, and the Eighth Amendment be dismissed, with prejudice, and without leave to amend, as any amendment would be futile, and that the Court decline to exercise supplemental jurisdiction over his state law tort claims and dismiss them, without prejudice, (Docket No. 36), and the Magistrate Judge having ordered that any objections were to be filed within 14 days, such that objections by non-ECF users were due by February 12, 2024, and no objections having been filed as of the date of this Order, and upon independent review of the record and de novo consideration of the Magistrate Judge's Report and Recommendation, which is ADOPTED as the opinion of this Court,

IT IS HEREBY ORDERED that Plaintiff Jeffrey Spencer's Amended Complaint [35] is DISMISSED as follows. Plaintiff's federal claims under the ADA, Rehabilitation Act and Eighth Amendment are dismissed, with prejudice, and leave to amend is denied, as futile. However, Plaintiff's state law tort claims are dismissed, without prejudice, to Plaintiff refiling such claims in state court as the Court declines to exercise supplemental jurisdiction given the dismissal of the federal claims. *See* 28 U.S.C. § 1367(c);

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED; and,

FINALLY, IT IS ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

s/ Nora Barry Fischer

Nora Barry Fischer
Senior U.S. District Judge

cc/ecf: United States Magistrate Keith Pesto

cc: JEFFERY SPENCER
QA1777
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